REMARKS

The present document is submitted in response to the office action dated November 1, 2007 ("Office Action").

Applicants have amended claim 14, support for which appears in the specification at page 7, lines 21-24. Further, Applicants have amended claims 31-36 to promote clarity. Finally, Applicants have added new claims 37-44. Support for new claims 37, 39, 41, and 43 can be found in the specification at page 7, line 10 and support for new claims 38, 40, 42, and 44 appears at page 7, lines 21-22. No new matter has been introduced.

Upon entry of the present amendment, claims 14-16, 18-20, and 31-44 will be pending and under examination. Applicants respectfully request that the Examiner reconsider this application in view of the following remarks.

Objection to Specification

The Examiner objects to the present specification for failing to provide support for claims 31-36, which were added in Applicants' last reply.[1] See the Office Action, page 2, fourth paragraph. More specifically, the Examiner contends that as the specification discloses 90 °C only, it does not support the term "about 90 °C" recited in these claims.

Applicants have deleted the term "about" from claims 31-36, thereby overcoming this objection.

Rejection under 35 U.S.C. § 112, Second Paragraph

Claims 14-16 and 18-20 are rejected for indefiniteness. More specifically, the Examiner holds that the term "an elevated temperature" recited in claim 14 is vague. See the Office Action, page 3, first and second paragraph. Applicants disagree.

Previously presented claim 14 recites "an elevated temperature to coagulate protein." Accordingly, this claim requires a temperature under which protein coagulates.

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[1] Applicants would like to point out that this objection is improper. Namely, it should be a rejection of claims 31-36 for including new matter, not an objection to the specification for failing to support these claims. Applicants have treated it accordingly.

As pointed out in Applicants' last reply, it is within the knowledge of a skilled artisan the temperature required for protein coagulation. See Exhibit 1 attached to Applicants' last reply.

Nonetheless, for the sole purpose of facilitating prosecution, Applicants have replaced in claim 14 the term at issue, i.e., "an elevated temperature" with the term "a temperature under which protein coagulates." Applicants submit that amended claim 14, is now definite, as a skilled artisan would readily know what the replacement term refers to. Claims 15, 16, and 18-20, all dependent from claim 14, are rejected on the same ground. For the same reasons, they are also definite.

Rejection under 35 U.S.C. § 103

Claims 14-16, 18-20, and 31-36 are rejected as obvious over Seidman et al, US Patent 3,511,293 ("Seidman") in view of Iwano, et al., JP 10-248562 ("Iwano"). See the Office Action, page 3, fourth paragraph.

Independent claim 14 will be discussed first. This claim, as amended, covers a method for producing a fermentation product from starch-containing produce. The claimed method includes 4 steps: (1) treating a starch-containing slurry with a starch-hydrolyzing enzyme at a temperature under which protein coagulates, (2) removing insoluble materials from the slurry to obtain a starch hydrolysate-containing solution, (3) treating the solution with a second starch hydrolyzing enzyme to produce a glucose-rich syrup, and (4) treating the syrup with a microorganism for up to five days to produce a fermentation product. Of note, step (4) is a fermentation step.

According to the Examiner, Seidman teaches steps (1), (2) and (3) described above and Iwano teaches fermenting hydrolyzed rice with a microorganism for making sake, a rice wine. See the Office Action, page 4, second, third, and fourth paragraphs. The Examiner thus concludes that "it would have been obvious for the person of ordinary skill in the art at the time the invention was made to use the syrup made by the method of Seidman et al. in the fermentation process taught by Iwano et al.," thus arriving at the claimed method. See the Office Action, page 4, fifth paragraph.

Applicants would like to bring to the Examiner's attention that they have limited claim 14 to carrying out the fermentation step for **up to five days**. Note that Iwano teaches a 30-day fermentation step (see Iwona at page 5, paragraph [0044]), which is much longer than a 5-day process; and Seidman does not teach any fermentation step (as correctly pointed out by the Examiner, see the Office Action, page 4, third paragraph). Thus, neither reference teaches or suggests an **up-to-five day** fermentation step required by the method of amended claim 14. In other words, combining Seidman and Iwano would not have reached the claimed method.

In view of the above remarks, Applicants submit that Seidman and Iwano, taken alone or in combination, do not render amended claim 14 obvious. Nor do they render obvious claims 15, 16, 18-20, and 31-36, all of which depend from claim 14.

New claims 37-44 all depend from claim 14, directly or indirectly. For the same reasons set forth above, they are also nonobvious over Seidman and Iwano.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment.

In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fee is believed to be due. Please apply any charges to Deposit Account No. 50-4189, referencing Attorney Docket No. 70002-104001.

Respectfully submitted,

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